THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.25995 OF 2005

Dt.6.12.2005

Between:

Mrs.Shas Fathima … Petitioner

And

The Government of Andhra Pradesh, rep.

By its Secretary, Revenue Department,

A.P.Secretariat, Hyderabad and 3 others. … Respondents

ORDER:

Heard both sides.

The petitioner is the wife of Jahed Ali Khan, Editor of Siasat Urdu Daily. It is stated that the Mandal Revenue Officer, Pudur Mandal, Ranga Reddy District issued a notice under Rule 3 of the Rules made under A.P.Assigned Lands (Prohibition of Transfer) Act, 1977 (hereinafter referred to as 'the Act') to the husband of the petitioner to submit his explanation within 15 days as to why he shall not be evicted from the land in question admeasuring Ac.16.14 guntas in Sy.No.101 of Yenkepally Village, Pudur Mandal, which is an assigned land. As the said notice was served on the husband of the petitioner alone on 19.5.2005, he has not filed any explanation. Therefore, the Mandal Revenue Officer by order dated 22.6.2005 held that as no explanation was offered by the husband of the petitioner and the local enquiry made by him discloses that the

possession of Jahid Ali Khan (Siyasat paper) is in contravention the provisions of the Act and accordingly decided to take possession of the said Government land in Sy.No.101, which was assigned originally in favour of Purshotham Rao, Devamma, T.Butchaiah, Lalaiah, Y.Narsaiah, Ramaiah and Y.Jangaiah and the Mandal Revenue Inspector is directed to take possession of the land in Sy.No.101 to an extent of Ac.16.14 situated at Yenkapally Village by conducting panchanama and kept the land in Government custody. As against the said order, the husband of the petitioner filed an appeal before the Revenue Divisional Officer, Vikarabad and the 3rd respondent by order dated 12.8.2005 granted interim stay of the proceedings of the Mandal Revenue Officer, Pudur and thereafter dismissed the appeal by proceedings dated 28.11.2005. A specific plea was taken by the husband of the petitioner stating that in fact the lands have been purchased in the name of the petitioner and no notice was issued to the petitioner, namely, Shams Fathima and the provisions of the Act contemplates issuance of notice. Under Section 3(2) of the said Act no landless poor person shall transfer any assigned land and no person shall acquire any assigned land either by purchase, gift, lease, mortgage, exchange or otherwise.

Admittedly, no notice has been issued to the petitioner under Section 3(2) of the Act. If there is any breach of the provisions under Section 3 of the Act, the competent authority is entitled to take action under Section 4 of the Act. Against which an appeal and revision is maintainable. There is total prohibition for the registration of assigned lands and under Section 5 of the Act. Under Section 7(1) of the Act whoever acquires any assigned land in contravention of the provisions of sub-section (2) of Section 3 shall be punished with imprisonment, which may extend to six months or with fine, which may extend to two thousand rupees or with both. As there is a penal provision, I am of the opinion that when it was brought to the notice of the Revenue Divisional Officer about the purchase of the said land by the petitioner, the Revenue Divisional Officer ought to have allowed the appeal and remanded the matter for fresh disposal by giving

notice to the petitioner.

Having regard to the facts and circumstances of the case, I am not inclined to express any opinion on the merits of the case. But the writ petition is liable to be allowed only on the short ground that no notice has been issued to the petitioner. Accordingly, the writ petition is allowed directing the Mandal Revenue Officer, Pudur to issue notice to the petitioner and take appropriate action in accordance with law and under the provisions of the Act. No costs.

(V.ESWARAIAH, J.)

6.12.2005

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